REMARKS

Applicant respectfully requests reconsideration of the instant application in view of the following remarks:

The following claims are *pending*: 1-10.

The following claims are *independent*: 1.

Please *amend* claims 1, 2, 4, and 5; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices (hereinafter "amendment," "amendments," and/or "amended"), Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that these claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

Claim Rejections - 35 U.S.C. § 103

The Office Action rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over Ichihari et al, US Publication No. 2003/0046203 (hereinafter "Ichihari"), and in further view of Vass, US Patent No. 7,251,627 (hereinafter "Vass").

Applicant respectfully traverses these rejections and submits that a *prima facie* showing of obviousness has not been made and that the applied references, taken alone or in combination, fail to discuss or render obvious every element of each noted claim(s).

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

> **(A)** the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate;
> **(B)** the difference or differences in the claim over the applied reference(s);
> (C) the proposed modification of the applied reference(s) to arrive at the claimed subject matter; and
> (D) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. (MPEP § 706.02(j))

Applicant submits that the rejections in the pending Office Action do not establish at least requirements **(A)** and **(B)** of a prima facie showing of obviousness.

Applicant submits Ichihari does <u>not</u> discuss or render obvious at least the following elements as recited, *inter alia*, in independent claim 1:

> A method implemented by a programmed computer system comprising:
> ...
> ... debt/equity ratio value is an output of one or more simulations;
> calculating, ... earnings per share ... based ... upon ... the debt/equity ratio ... ;
> ...

The Office Action asserts the above claimed elements are shown in Ichihari and alleges:

> ...
> each changed debt/equity ratio value is an output of one or more simulations (**para 0062-0063**; via an enterprise makes loss as a result of volatility of earnings by a business risk [implied reiteration of stock prices resulting repeated change of debt/equity ratio] and [para **0089+**; via implied and **inherent** simulation method in **Monte Carlo** simulation system);
> calculating, with the computer system, values of earnings per share associated with the entity based at least in part upon the iteratively changed values of the debt/equity ratio outputted in the one or more simulations and associated with the entity (**para 0081**; via step **108 in Fig.1**)
> ... (emphasis original)(Office Action, p. 3).

Applicant disagrees with the Examiner's characterization of the cited reference.

Applicant submits Ichihari discusses the exact opposite of at least the claimed, " ... calculating, ... earnings per share ... based ... upon ... the debt/equity ratio ... ." In direct contrast, Ichihari discusses calculating debt/equity ratios based upon earnings values. For example Ichihari states, "[f]or the calculation of the business risk, the processing unit 174 calculates the ROI [i.e. earnings] probability distribution ... " (Ichihari, page 6, ¶0099) and " the processing unit 174 calculates the required capital composition [i.e. debt/equity ratios] based on the result of calculation of the business risk (110) and the default probability (102)," (Ichihari, page 6, ¶0100). Accordingly, Applicant submits, Ichihari describes *calculating debt/equity ratios based on earnings values* and does not discuss or render obvious at least the claimed "calculating, ... earnings per share ... based ... upon ... the debt/equity ratio ... ," as recited in claim 1.

Similarly, Applicant submits that Vass's method of calculating real non-simulated debt to equity ratios fails to remedy the deficiencies identified above in Ichihari with regard to

independent claim 1. In fact, the Applicant submits the Examiner's specific reference to Vass [col4, 55+] further enhances the contrast between Ichihari and the claims. According to the Examiner, Vass provides inputs to Ichihairi's simulations. Those inputs, per the Examiner, include increasing profits or profit share, i.e.: earnings:

> ... see Vass [col4, 44+] where program looks to determine if a stock has rising or stable sales, profits and profits per share ... period. Again if any stock selected into the initial universe is found to have **declining** sale, profits or profits per share ... then that stock is **not** selected into the final universe (emphasis original)(Office Action, p. 8).

A combination of Ichihari and Vass that entails profits and profit shares [i.e., earnings] to formulate simulations, simulations that are used to then create debt/equity ratios, does not teach or render obvious at least the claimed, "calculating, ... earnings per share ... based ... upon ... the debt/equity ratio ... ," as recited in claim 1 --- it teaches the direct opposite, *a calculation of debt/equity ratio based on earnings values.*

For at least the reasons discussed above, Applicant submits that the pending rejection has mischaracterized the language of the claim element and/or the applied reference(s) and, thus, has not established a *prima facie* case of obviousness. The MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," (§ 2106 II(C), emphasis added) and, "*All words* in a claim must be considered in judging the patentability of that claim against the prior art." (§ 2143.03, emphasis added). Applicant submits that the pending rejection has failed to consider "every limitation in the claim" and "[a]ll words in [the] claim" in judging the patentability of the claim against the prior art by mischaracterizing claim elements and/or over-generalizing the applied reference(s).

Moreover, as amended claim 1 clearly states "... create a second debt/equity ratio based on at least two simulations ... ." Applicant submits this is not discussed or rendered obvious by Ichihari, nor is it discussed or rendered obvious by Vass. Even if, for example, Ichihahri and Vass could be combined the combination would produce outputs based solely on real, non-simulated, market activity (i.e., NYSE, ASE, and NASDAQ; see Office Action, p. 4, ¶. 4, and Vass, col. 4, lines 9-13 and 50-54), as opposed to "at least two simulations."

Accordingly, by neglecting and/or mischaracterizing claim elements, Applicant submits that a *prima facie* showing of obviousness has not been established and thus the applied references do not discuss or render obvious at least these claimed elements. As such, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection and allowance of the claims. Should the Examiner maintain the rejection, Applicant respectfully requests that the Examiner provide specific citations and explanations describing how each and every element of the pending claims are allegedly rendered obvious by the cited reference, providing indications of specific, alleged correspondences between claim elements and cited portions of the applied reference.

Furthermore, Applicant submits that claims 2-10, which depend directly or indirectly from independent claim 1, are also not discussed or rendered obvious by Ichihari, which discusses *a calculation of debt/equity ratio based on earnings values*, and Vass, which discusses a *method of calculating real non-simulated debt to equity ratios*, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to the independent claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection.

CONCLUSION

Consequently, the references cited by this Office Action and/or any previous office actions (hereinafter "Office Action") do not result in the claimed invention(s), there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed invention(s) are not admitted to be prior art. Thus, the Applicant respectfully submits that the supporting remarks and claimed inventions, claims 1-10, all: overcome all rejections as noted in the Office Action, are patentable over and discriminated from the cited references, and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the claims over the cited references, pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and/or distinguish over any such remaining claim elements at a later time, should it become necessary. Further, any remarks that were made in response to any Office Action rejection as to any one claim element, and which may have been re-asserted as applying to other Office Action rejections as to any other claim elements, any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim elements have been anticipated and/or rendered

obvious by any of the cited references. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and allowance of all claims.

Authorization

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-503. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-503.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,
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Dated: October 25, 2010

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